

White Ridge Angus
Somerville, VA 22739

May 5, 2003

Mr. Barry Carpenter
USDA

Dear Mr. Carpenter:

I was the next to last speaker at the COOL listening session on April 29 in Raleigh, NC. Basically, I asked the USDA to implement COOL in a least cost manner by identifying the country of origin for foreign cattle as they enter the United States and then assuming all other cattle are born and raised in the USA. After the meeting, I asked you about the potential of such a program. You replied that the USDA could not implement such a program because your lawyers have said that the USDA is prohibited by law from instituting any mandatory identification program, and that marking foreign cattle with their country of origin would be a form of mandatory identification. I was dumbfounded. The title of the law is Country of Origin Labeling. How can you label without identifying the country? It's an oxymoron. I'm confident the intent of the law was to prevent mandatory individual identification and not to prevent marking foreign cattle with their country of origin. If you have any questions about the intent of the law, ask the lawmakers.

Implementing a system as you described in Raleigh would allow packers to oversee a de-facto mandatory identification system initiated by the USDA because the USDA would require an auditable chain of ownership from the retailer back to the cow-calf producer. Such a system would give packers even more control of the industry, an effect exactly opposite of the intent of the law. In this scenario, given equal treatment under the law, how would USDA trace foreign cattle back to their farm of origin? It is country of origin labeling, not farm of origin labeling. Additionally, the COOL law suggests using existing programs as models for the certification program. I am not aware of any existing programs that require an auditable chain from the retailer to the cow-calf producer.

Currently, Mexican cattle are branded by APHIS with a permanent country of origin mark that the USDA could also use to track Mexican cattle. How about a little inter-agency cooperation? If APHIS requires all cattle entering the United States to be marked with their country of origin, then USDA could track those cattle for country of origin without being the agency requiring the mark. With regards to potential WTO concerns for Canadian cattle, Canada has its own country of origin labeling law that requires all cattle from the United States to be marked as they enter Canada. Therefore, we could do the same with Canadian cattle. What's sauce for the goose is sauce for the gander. At some point common sense must prevail.

A separate approach concerns the law, which states that the USDA “....shall not use a mandatory identification system to verify the country of origin of a covered commodity”. Live cattle are not a covered commodity. I’ve never been to a grocery store and bought a live steer. I’m sure there are other ways to interpret the statute--it is admittedly somewhat ambiguous. But, I’ve detailed a few ways USDA could implement a least cost COOL by marking at the border all foreign cattle as they enter the United States as to their country of origin, and justify that position. I’m sure there are other sound options.

Your current position is based on legal opinion. Well, you can find plenty of lawyers with different opinions. Remember, sometimes lawyers issue opinions that if followed will result in even more employment for more lawyers. In closing, please consider the following analogy. You are fishing at a lake. There are signs posted everywhere that swimming in the lake is illegal and that violators will be prosecuted. You see a child drowning. Do you let the child drown, or save the child and violate the law against swimming in the lake? Lawmakers do not intend for you to let the child drown, and lawmakers do not intend for COOL to drown in the currently proposed regulations.

I’m not a lawyer. I’m a cattle producer whose livelihood is based on the cattle business. Producers and consumers want COOL and we want it as intended, without unnecessary and burdensome record keeping and bureaucracy. You can either be a villain or a hero in the eyes of the consumers and cattle producers across the United States. Please be a hero.

Sincerely,

A handwritten signature in black ink, appearing to read "Bobby Grove", with a long horizontal flourish extending to the right.

Bobby Grove

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